Frontier Corporation

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October 29, 1997

BY OVERNIGHT MAIL

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-128

Enclosed for filing please find an original plus four (4) copies of the Opposition of Frontier Corporation filed in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

Michael J. Shortley, III

cc: International Transcription Service

Chief, Enforcement Division (2)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Implementation of the Pay Telephone	)	CC Docket No. 96-128
Reclassification and Compensation	)	
Provisions of the Telecommunications	)	
Act of 1996	)	

OPPOSITION OF FRONTIER CORPORATION

Michael J. Shortley, III

Attorney for Frontier Corporation

180 South Clinton Avenue
Rochester, New York 14646
(716) 777-1028

October 29, 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)))))	**CC Docket No. 96-128**

OPPOSITION OF FRONTIER CORPORATION

Introduction

Pursuant to the Bureau's Public Notice,[1] Frontier Corporation ("Frontier") submits this opposition to petition for waiver filed by the United States Telephone Association ("USTA")[2] of the Commission's requirement that payphone service providers transmit unique information digits that identify calls originating from payphone lines.[3] The Commission should deny the petition in its entirety. In particular, the Commission should: (a) reaffirm the requirement that payphones transmit unique digits and condition *any* compensation obligation with respect to LEC-owned payphones on

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1 Public Notice, DA 97-2214, *Pleading Cycle Established for Petitions To Waive Payphone Coding Digit Requirements*, CC Dkt. 96-128 (Oct. 20, 1997) ("Public Notice").

2 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Dkt. 96-128, Petition for Waiver of the United States Telephone Association (Sept. 30, 1997) ("Petition"). The LEC ANI Coalition and TDS Communications Corporation also filed similar petitions. This opposition -- although focused on the USTA petition -- applies equally to these petitions as well.

3 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Dkt. 96-128, Order on Reconsideration, § 64 (Nov. 8, 1996) ("Reconsideration Order").

compliance with this obligation; and (b) declare that database look-up methods of identifying payphone-originated calls are unacceptable.

For the same reasons, the Commission should summarily rescind the waiver that the Bureau granted on its own motion.[4]

Argument

I. USTA HAS FAILED TO JUSTIFY GRANT OF THE REQUESTED WAIVER.

Grant of a waiver requires a determination by the Commission that special circumstances exist warranting grant of the requested waiver and that its grant will further the public interest.[5] USTA cannot satisfy either prong of this test.

The obligation to transmit information digits that uniquely identify payphone lines has been known for close to one year and the October 7 start date for per-call compensation has been known for longer than that. Yet, USTA waited until the eleventh hour -- only *seven days* prior to the October 7 start date -- to file its waiver petition. Apparently, much of the LEC industry has done little to comply with this requirement. This state of affairs does not constitute special circumstances. Rather, it is a request that LECs be not only relieved of -- *but rewarded for* -- their failure to comply with a clear Commission requirement and USTA offers nothing by way of mitigation.

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4 *See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Dkt. 96-128, Order, DA 97-2162 (Oct. 7, 1997) ("Waiver Order").

5 *See* Waiver Order, ¶ 10; 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

The Bureau's waiver order merely glosses over this failure:

> The industry is, however, working on an expeditious resolution of this situation. The parties have submitted extensive correspondence showing that substantial efforts are being made to arrive at an industry-wide resolution of this matter. The efforts to date indicate that the industry is working collaboratively in good faith toward the goal of enabling all payphones to transmit coding digits.[6]

With all due respect, this assertion is flatly contradicted by reality. As the waiver order implicitly acknowledges, the LECs are -- and presumably *were* -- able to comply with the Commission's requirements in fairly short order. The waiver is, for example, limited to only five months' duration. Had the LECs started to bring themselves into compliance with this requirement last November, they could have completed the process months ago and the waiver petitions would have been totally unnecessary.

Moreover, the "collaboration" that the Bureau perceives is illusory at best. As the USTA petition acknowledges, the LECs want the flexibility to implement database solutions[7] that the LECs and the Commission *already know* are completely unacceptable to interexchange carriers.[8]

The only justification proffered by USTA for this failure is that it would be expensive to comply with the Commission's requirement.[9] Even if USTA's numbers were correct -- which they are not[10] -- that cannot justify grant of the requested waiver.

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6 Waiver Order, ¶10.

7 USTA Petition at 3, 11.

8 *See* Part II *infra*.

9 USTA Petition at 9-10.

10 See Letter from Mary Sisak, MCI to Michael K. Kellogg, Kellogg, Huber, Hansen, Todd & Evans at 4-6 (Sept. 30, 1997). A copy of this letter is annexed as Attachment A hereto.

The LECs stand to receive hundreds of millions of dollars *per year* in payphone compensation. Thus, even if the costs of compliance were in the hundreds of millions of dollars,[11] the LECs will recoup these costs over a relatively short period of time. The claimed expense cannot even remotely justify the requested waiver or the Bureau's waiver order.

The Commission also cannot find that requested waiver furthers the public interest. USTA's petition provides no such showing and the Bureau's waiver order is facially defective in this regard. The Bureau first asserts that the waiver serves the public interest because "it will allow us to move forward in implementing the statutory requirement that PSPs receive fair compensation for calls placed from their phones."[12] This assertion is incorrect. A waiver is *not* necessary to ensure that payphone owners receive compensation. The Commission just as easily could have -- and should have -- continued its per-line compensation plan until the LECs comply with the Commission's requirement. The waiver is decidedly *not* necessarily to the achievement of this goal.

The Bureau, secondly, observes that refusal to waive the rule would "lead to the inequitable result that many payphone providers -- *particularly independent providers who do not control the network modifications necessary to permit payphone-specific*

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11 The bulk of the costs identified by USTA relate to converting non-equal-access offices. *See* USTA Petition at 9-10. Frontier, however, agrees with this aspect of the waiver request and concurs with the request that non-equal-access offices be exempt from the coding requirement. Grant of this aspect of the requested waiver should be conditioned upon: (a) providing interexchange carriers the option of paying compensation for payphones served by non-equal-access offices on a per-line basis; and (b) recalculating the monthly compensation to reflect the lower volume of calls that presumably originate from such payphones. The Commission should require the LECs promptly to file the data necessary for the Commission to make this calculation.

12 Waiver Order, ¶ 11.

coding digits to be transmitted -- would be denied compensation...."[13] This statement is a complete *non sequitur.* With respect to the LECs, there is nothing inequitable about refusing to reward parties for their failure to comply with a Commission rule.

The conclusion is also wrong with respect to private payphone operators. Even were the Commission to deny them per-call compensation until the proper digits are transmitted, independent providers would not be without a remedy. They could seek damages from the noncompliant LECs. Moreover, the Commission could have continued the per-line compensation plan until the LECs comply with the coding requirement.

Finally, the Bureau itself denigrates the substantial harm to third parties that grant of the requested waiver will cause and that the Bureau's waiver order is already causing. The Bureau cavalierly asserts that:

> This limited waiver, moreover, does not significantly harm any parties. The unavailability of these coding digits, for instance, will not preclude IXCs from identifying payphone calls for the purpose of determining the number of calls for which compensation is owed.[14]

The Bureau's statement ignores the very real harms that IXCs will suffer in trying to recover the costs of this largesse. Without proper digits, the IXCs cannot target recovery to payphone users. IXCs that implement per-call surcharges -- like Frontier -- will assess surcharges on calls that are not originated from payphones, but that transmit

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13 *Id.* (emphasis added).

14 *Id.*, ¶ 12.

an "07" information digit.[15] Frontier runs the real, yet unquantifiable, harm of alienating its customers. Alternatively, IXCs could choose to raise rates generally and thereby punish customers that are not the cost-causers. For some reason, this does not seem particularly fair. Finally, IXCs could choose to absorb this cost and thereby donate substantial portions of their net income to payphone owners. This outcome does not seem particularly fair either.

In addition, the waiver petition and the waiver order simply ignore the tens of millions of dollars that the IXCs were required to expend to be able to track payphone calls in order to pay compensation on a per-call basis. IXCs have designed their systems with the clear expectation that payphones would transmit unique digits. Receipt of this information is critical to the IXCs' ability to track -- and, if necessary, block -- payphone-originated calls.[16] The requested waiver -- and the Bureau's waiver order -- are tantamount to a declaration that the IXCs' substantial costs of compliance are of no consequence. This is a particularly inequitable result. IXCs have -- and continue to -- incur substantial costs *solely* in order to incur yet additional costs in paying payphone compensation. In contrast, the LECs have refused to incur costs where they stand to be the principal beneficiaries from the Commission's payphone compensation plan.

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15 Frontier's preliminary traffic studies indicate that approximately 50% of calls from lines that transmit the "07" information digit are not from payphones, but are from other types of restricted lines, *e.g.*, hotel/motel, hospital, etc.

16 *See* Letter from E. E. Estey, AT&T, to John B. Muleta, FCC (Oct. 14, 1997). A copy of this letter is annexed hereto as Attachment B.

Finally, the request waiver -- and the Bureau's waiver order are flatly inconsistent with the Commission's market-based rationale for its per-call compensation amount. Although this rationale is wrong -- both as a matter of logic and fact -- an essential prerequisite of the rationale is the IXCs' ability to block payphone-originated calls. Absent that ability, IXCs have no leverage to negotiate reasonable compensation levels with payphone owners. They cannot now block payphone-originated calls for the simple reason that they cannot uniquely identify those calls.

Rather than grant the requested waivers, the Commission should expeditiously: (a) deny the requested waivers in their entirety; (b) rescind the Bureau's waiver order; (c) compel the LECs to make the necessary network modifications so that they may transmit the digits necessary to uniquely identify calls originating from payphone lines on a real-time basis[17] by a date certain;[18] (c) adopt a reasonable per-line compensation program for private payphone owners until the LECs bring themselves into compliance; and (d) deny any payphone compensation to the LECs until they are compliant.[19]

II. THE COMMISSION SHOULD DECLARE THAT DATABASE LOOK-UP METHODS WILL NOT COMPLY WITH THE COMMISSION'S REQUIREMENTS.

As a part of its petition, USTA requests that the Commission declare that the LECs may use any technically feasible method of identifying payphone lines.[20] This, of course, is a code-phrase for database methodologies. The Commission should flatly

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17 *See* Part II , *infra.*

18 Frontier suggests March 9, 1998, the end date of the Bureau's waiver order.

19 As described above (*see supra* at 4 n.11), the Commission should exempt non-equal access offices form these requirements.

20 USTA Petition at 3, 11.

proscribe database look-ups as a means of compliance. As MCI has convincingly explained,[21] the database look-up approach cannot work and would impose even more costs upon and degrade the service offered by IXCs. Frontier will not repeat MCI's analysis here, but adopts it in its entirety and incorporates it herein by reference.

The Commission should declare that the continued use of the "07" information digit, coupled with database look-ups to identify payphone lines, does not satisfy the Commission's coding requirement.

Conclusion

For the foregoing reasons, the Commission should act upon the requested waivers in the manner suggested herein.

Respectfully submitted,

Michael J. Shortley, III

Attorney for Frontier Corporation

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Rochester, New York 14646
(716) 777-1028

October 29, 1997

21 See Attachment A.

ATTACHMENT A

MCI Telecommunications Corporation
1801 Pennsylvania Avenue N.W.
Washington, D.C. 20006
202 887 2605

Mary J. Sisak
Senior Counsel
Regulatory Law

MCI

September 30, 1997

Michael K. Kellogg
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
1301 K Street, N.W.
Suite 1000 West
Washington, DC 20005-3317

Dear Mr. Kellogg:

This letter responds to your letter dated September 10, 1997, on behalf of the LEC ANI Coalition (Coalition) to Leonard S. Sawicki, concerning the obligations of local exchange carriers (LECs) to provide unique payphone coding digits to payphone service providers (PSPs) that can be transmitted as part of ANI by PSPs to carriers.

In the letter, you state that it is the position of the Coalition that paragraph 64 of the Commission's Payphone Reconsideration Order must be read consistently with the Commission's OLS Order, in which the Commission found that LECs could satisfy their obligation to provide additional coding digits by offering either Flex ANI or OLNS/LIDB. You also state that the Coalition believes that additional coding digits other than "07" and "27" are not necessary for carriers to perform per call tracking and blocking. However, in the spirit of "cooperation" you propose:

1. That LECs, at their sole discretion, will make Flex ANI or OLNS/LIDB available at no charge to carriers for per call compensation purposes.

2. Carriers who receive Flex ANI and/or OLNS/LIDB pursuant to this offer cannot use the coding digits for any other purpose and if a carrier wants to use the digits for another purpose, it must bear a proper allocation of the tariffed rate of that service.

3. LECs will bill all PSPs for providing Flex ANI and/or OLNS/LIDB coding digits to carriers and PSPs must use payphone lines where such lines are available.

4. In order to put this regime in place and test the use of the new digits, per call compensation would begin as scheduled on October 7, 1997, but for a period of six months, per call tracking would be conducted using LEC ANI lists, which would be provided on a monthly basis.

MCI believes that the Coalition's proposal is not in compliance with the Commission's payphone orders and, therefore, it is unacceptable. The Commission's Payphone Reconsideration Order clearly requires LECs to make available to PSPs unique coding digits as part of ANI. In addition, the order states that each payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line"[1] in order for the PSP to be eligible for compensation. Based on information filed by the LECs, it is clear that the coding digit "07" would be transmitted as part of ANI in the OLNS/LIDB mechanism and carriers would need to query LIDB to get a payphone- specific information digit. There is no dispute that "07" is not a unique payphone coding digit. LEC OLNS/LIDB service, therefore, does not comply with the Commission's orders.

Your characterization of the OLS Order and its relationship to the payphone orders -- namely that because the Commission allowed LECs to provide OLS service through either Flex-ANI or LIDB, its payphone order also must allow the provision of screening digits through Flex-ANI or LIDB-- is incorrect. The Commission's originating line screening (OLS) proceeding, in which it required LECs to make OLS service available to aggregators, including payphone providers (PSPs), and operator service providers (OSPs), was for the purpose of ensuring that aggregators had a mechanism available to protect themselves from fraudulent operator service call charges billed to the telephone line and that OSPs had a mechanism to enable them to prevent such fraudulent calls. Importantly, this proceeding never considered and had no impact on subscriber 800 calls or other dial-around call types because these calls are never billed to the payphone-- they are billed to the 800 customer. Attempting to link the technical considerations, business purposes and policy bases of OLS for operator service call charge fraud and unique ANI information digits for payphone call origination is simply an attempt to unnecessarily mingle issues.

Although the Commission found that LECs could provide OLS information through LIDB or Flex-ANI, the Commission did not find that there was no other way for LECs to provide aggregator specific coding digits. The Commission simply found that in this case, it would allow LECs to fulfill their obligations through Flex-ANI or LIDB and it would not require LECs to implement other mechanisms. This decision did not significantly impact interexchange carriers (IXCs) because of the nature of the operator services that were affected. Specifically, MCI, for example, performs LIDB queries for operator service calls to determine whether the call is fraudulent. Thus, when MCI performs a query for its own internal fraud purposes, the payphone coding information will also be available to further enhance MCI's ability to determine whether to allow the call to be completed. Also, the OLS Order did not require carriers to do

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[1] Reconsideration Order at para. 64.

LIDB queries. Rather, the OLS Order simply made available to PSPs and carriers an additional mechanism with which to protect themselves from fraud.[2]

Payphone compensation is an entirely different situation. Carriers do not have discretion as to whether to track calls from payphones-- carriers must track all calls from payphones, including subscriber 800 calls. Therefore, if a LIDB solution is implemented, a LIDB query would have to be performed for all calls that are potentially from payphones. In addition, payphone compensation is not limited to operator service calls-- subscriber 800 calls also are compensated. As MCI explained in its letter dated April 18, 1997, to William F. Caton, MCI's current network configuration simply does not allow the use of LIDB to determine whether subscriber 800 calls originate from payphones. MCI can only launch LIDB queries from its operator service platform. The network was designed in this way because-- before the advent of per-call payphone compensation-- there was no need to know if a subscriber 800 call originated from a payphone.

In addition, while it may have been appropriate for the Commission to allow LECs to comply with their OLS obligations in a manner which imposed minimal burden on them because LECs were not the primary beneficiaries of the order, MCI estimates that the LECs' revenues will increase by $1 billion annually and possibly even more as a result of payphone compensation. Accordingly, the analysis of who should bear the cost of ensuring the implementation of the Commission's payphone compensation scheme is very different from the OLS Order. In light of the fact that IXCs have already spent millions of dollars to modify their networks to track calls from payphones upon the receipt of unique information digits-- and in light of the fact that the IXCs will be required to pay PSPs, and primarily LECs, over one billion dollars in payphone compensation annually, it is reasonable to require the LECs to make any necessary upgrades to transmit unique payphone coding digits as part of ANI.

Moreover, providing payphone coding digits through LIDB is inefficient, expensive, represents older technology, and cannot be implemented for at least 12 months. As demonstrated, MCI currently cannot perform LIDB queries for subscriber 800 calls. And, although it is technically possible to reconfigure the network to perform LIDB queries for subscriber 800 calls, MCI would have to spend between eight million and 50 million dollars in vendor costs alone to do so. Hardware and software upgrades to the operator service platform would cost, at a minimum, six million dollars. Switch software would have to be developed by our vendors at additional cost. In addition, MCI would face internal costs-- such as the costs

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2 If a carrier fails to perform a LIDB query and the call turns out to be fraudulent, the facts of whether the appropriate information digits were available and whether the OSP queried LIDB, most likely, could affect the determination of which entity is responsible for the fraud.

incurred to increase capacity to accommodate an increased number of LIDB dips and to change the routing for certain kinds of traffic (e.g. toll free) that would otherwise not require LIDB queries. Even with accelerated vendor turn-around, this process would take at least a year.

The use of LIDB would be an extremely inefficient mechanism to identify calls from payphones. Every "07" call would have to be queried, whether it was from a payphone or not, including calls from hotels, hospitals, and student dormitory rooms. A LIDB query for every one of these calls would add network delay and increase carrier access charges. For example, the typical internal processing time for a toll free call is ten milliseconds. However, if a LIDB dip is required, MCI must allow up to 850 milliseconds for the query and response-- 200 milliseconds of which is allowed for internal LIDB processing. Based on the volume of "07" calls, this would significantly increase network delay and access charges.

The additional cost to reconfigure the network and the network delay simply cannot be justified especially when more efficient and more cost effective alternatives, namely, Flex-ANI or hard-coding digits at the switch, are available.

Although the Coalition argues that these options are too costly, based on the data provided by USTA in its letter to the Commission dated July 28, 1997, and Bellcore data, it appears that LECs could implement Flex-ANI with minimal cost. USTA claims that it would cost $770.5 million to upgrade central office switches to provide Flex-ANI. This is based on upgrades for 3,400 non-equal access digital offices at an average cost of $35,000 each (total $119 million); 1,100 electro-mechanical switch replacements at $400,000 each (totaling $440 million); and implementing the Flex-ANI feature for digital equal access offices (estimated cost $171 million) and for the upgraded non-equal access electro-mechanical offices (estimated cost $40.5 million).

As an initial matter, the majority of the cost ($559 million of $750 million) is for converting non-equal access offices. However, given that there may not be smart payphones in non-equal access areas, the LECs may want to request a waiver of the Commission's Payphone Orders to delay per-call compensation in these areas.[3] Of course, any continuation of per-phone compensation would have to be based on a greatly reduced estimate of the number of compensable calls given the rural nature of the areas and any such waiver should only apply until a switch is converted to equal access. Dealing with non-equal access offices, separately, however, would greatly reduce the scope of the LECs' problem.

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[3] USTA states that many of these switches are located in rural areas, "serve few if any smart payphones, and most do not have prisons located in their serving territory." USTA Letter at 4.

The Coalition suggests that a waiver is not necessary because LECs with non-equal access switches could comply with per-call compensation if they are allowed to use OLNS/LIDB. According to USTA, however, the Coalition is incorrect.[4] USTA states that many small companies technically are not able to implement OLNS immediately.[5] According to USTA, OLNS is a long-term option for certain companies and "some accommodation will be required in the short term because of technical inability to implement OLNS immediately."

In any event, USTA's cost estimate for implementing Flex-ANI or hard-coding switches in non-equal access areas is incorrect. According to information provided by Bellcore ("Non-Equal Access Data" (NEAD), it appears that there are only 485 non-equal access electro-mechanical switches-- not 1,100 as stated by USTA. Based on USTA's cost estimates, it would cost $194 million to upgrade these offices. (485 X $400,000= $194 million). In addition, even this estimate may be high because it assumes that all of the 485 non-digital, non-equal access offices must be replaced.

USTA's statement that there are 3,400 digital non-equal access offices also is incorrect. Based on the Bellcore data, it appears that there are only 2,096 non-equal access offices. Of these, approximately 485 are the electro-mechanical type mentioned above and approximately 339 are Remote Digital switches which would not require upgrades because remote switches subtend Host switches and take on the characteristics of those respective Host switches. After deducting other special purpose switches, the actual number of non-equal access digital switches requiring upgrades is approximately 1,200 Host switches. After further examination and clarification of the exact meaning of some of the switch ID (CLLI codes) used in the Bellcore NEAD report, MCI expects that this number could decrease to only 500 switches needing upgrades.

USTA's estimate of the cost to upgrade equal access switches also is wrong. It is likely that USTA's estimate of 21,000 equal access offices is high because it also incorrectly includes remote offices. Most host switches can accommodate up to 5 remote switches, and some up to 10. If we assume only 3 remotes for every host as an average nationwide, then the number of equal access switches would be less than 5,500. This number makes more sense in light of USTA's estimate that only 3,000 equal access offices are equipped with Flex-ANI-- even though five of the seven RBOCs currently offer Flex-ANI (Ameritech, Bell Atlantic, NYNEX, SWBT and US West).

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[4] LEC ANI Coalition letter dated September 22, 1997, to Richard H. Rubin at 5.

[5] USTA <u>Ex Parte</u>, filed September 10, 1997, attachment at 2.

In addition, USTA's estimate that it would cost $171 million to implement Flex-ANI in equal access switches is based on an incorrect cost per switch. USTA's calculation is based on a cost of $9,000 per switch, which was developed by soliciting quotes from equipment vendors and then averaging the low quote of $4,000 per switch with the high quote of $14,000 per switch.[6] A far more accurate approach would have been to determine the average cost by weighting the prices quoted by vendors according to the population of each switch type. Even at $9,000 per switch, however, the cost to implement Flex-ANI is only $22.5 million (5,500-3,000=2,500 switches needing upgrades times $9,000= $22.5 million).

Also, in their interstate cost support, the BOCs cite software right-to-use fees of $2.1 million (USW), $2.6 million (SWBT), and $1.8 million (NYNEX). All five BOCs introduced Flex-ANI into their networks approximately in 1991/92. USTA's figure that 21,000 switches need upgrades costing $171 million is not consistent with these facts. In any event, as stated by USTA,[7] "implementation of Flex ANI, ANI ii or hard coding is determined by the individual company based on it's own business strategy and arrangements with other carriers." Even a $171 million one-time cost seems like a reasonable investment for the LECs to make to obtain over $1 billion annually in payphone compensation. Based on USTA's estimate of the cost of Flex ANI -- $171 million-- the per-call cost to recover that amount would be only $0.01.[8] Thus, the per-call cost of Flex ANI is clearly no more than $0.01, (without adjusting the $171 million USTA estimate) and almost certainly a fraction of this amount.

MCI also rejects your suggestion that per-call compensation should be implemented through the use of LEC ANI lists. As an initial matter, this approach would be an administrative nightmare-- if it could be done at all-- because carriers would have to store the call records for billions of calls per quarter that have a "07", "27", "29", or "70" information digit and then match those call records against the LEC ANI lists to determine which calls are compensable.

In addition, this approach would negate one of the basic tenets of the Commission's approach to per-call compensation-- namely, that carriers and 800 customers can avoid excessive compensation amounts by blocking calls from payphones. Without the ability to identify a call as coming from a payphone on a real-time basis, carriers and 800 customers cannot block these calls to avoid compensation.

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[6] USTA Letter at 4.

[7] USTA Letter at 3.

[8] This cost figure was derived by depreciating the cost over seven years and assuming a 15.75% return on investment. No "commission adjustment" was used, however.

This approach also would severely limit the ability of carriers to recover the cost of compensation from the consumer because carriers must be able to submit the compensation charge with the monthly bill for the telecommunications service to the consumer. Carriers receive the LEC ANI lists months after a call has occurred, and it takes months more for carriers to verify the accuracy of those lists. The result is that it could be 6 months or more after a call is made before the carrier could submit the charge for payphone compensation to the consumer. It is unlikely that consumers would even remember the call, let alone pay the compensation charge.

With respect to the Coalition's charge that because MCI did not clearly indicate its position on LIDB in a timely fashion, MCI is not responsible for the fact that LECs did not implement the ability to provide unique payphone coding digits by October 7, 1997,[9] MCI refers you to its Petition for Reconsideration filed on October 21, 1996, in which MCI asks the Commission to define a compensable phone as one that transmits specific payphone coding digits. In the Petition, MCI also clearly explains that "07" is not a specific payphone coding digit. Thus, it should have been clear to the Coalition at that time that LIDB would not be an acceptable mechanism to MCI. MCI also refers you to its Reply Comments in connection with BellSouth's CEI plan, dated January 15, 1997, in which MCI argues that BellSouth's plan is not in compliance with the Commission's payphone orders because BellSouth intended to provide the coding digit "07" as a part of ANI with payphones and "07" is not a specific payphone digit. Thus, MCI argued that "PSPs purchasing payphone service from BellSouth will only be able to transmit the coding digit "07" and, therefore, they will not be eligible for compensation."[10] MCI filed similar arguments in the CEI proceedings for Ameritech, NYNEX, US West, and Pacific Bell and Nevada Bell.

Finally, it must be recognized that over the last year MCI and other IXCs have spent millions of dollars and thousands of man-hours implementing the mechanisms necessary to track unique payphone coding digits and to pay per-call compensation by October 7, 1997. If MCI

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9 Coalition letter dated September 22, 1997, to Richard H. Rubin at 4.

10 MCI Reply Comments, BellSouth CEI Plan, CC Docket No. 96-128, January 15, 1997, at 2-3.

receives unique payphone coding digits with ANI-- which the industry standards committee has identified as 27, 29 and 70-- we will be able to track and pay compensation for these calls. If we do not receive these digits, we will not pay compensation.

If you have further questions on this matter, please contact Len Sawicki (202) 887-2048 or me.

Sincerely,

Mary J. Sisak
so

Mary J. Sisak

cc: Richard Metzger
John Muleta
Rose Crellin
Greg Lipscomb
Jennifer Myers
Robert Spangler
Al Barna

ATTACHMENT B

AT&T

E. E. Estey
Government Affairs Vice President

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202 457-3895
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October 14, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

RE: Ex Parte Presentation, CC Docket No. 96-128

Dear Mr. Caton:

On October 14, 1997 the attached letter was provided to John Muleta, Acting Deputy Chief of the Common Carrier Bureau.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's rules.

Sincerely,

E Estey

attachment

copy to: J. B. Muleta

AT&T

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Government Affairs Vice President

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October 14, 1997

Mr. John B. Muleta
Acting Deputy Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, Room 500
Washington, DC 20554

RE: CC Docket No. 96-128

Dear Mr. Muleta:

On October 7, 1997, the Common carrier Bureau issued a waiver order in the above-captioned docket that extended until March 9, 1998, the obligation to transmit specific payphone identification digits to carriers for LECs and PSPs that are currently unable to do so. The waiver did not, however, extend carriers' obligation to compensate PSPs on a per-call basis beginning October 7, 1997. Information AT&T had previously placed on the record demonstrates that AT&T cannot comply with the waiver as granted. The alternative AT&T provides below would allow AT&T and similarly situated carriers to comply with the Commission's payphone compensation requirements and the Bureau's waiver order by permitting carriers to use the per-phone compensation method to calculate their payment obligations for payphones that do not deliver the necessary identification digits.

On September 30, 1997, the United States Telephone Association ("USTA") filed a petition requesting a blanket waiver that would give all LECs nine months to implement either a Flex ANI-based or an OLNS/LIDB-based technical solution to the Commission's requirement that LECs enable payphone service providers ("PSPs") to transmit specific payphone identification digits as part of call set-up information. On October 1, 1997, TDS Telecommunications Corporation ("TDS") requested a waiver until July 1, 1998 to permit it to provide LIDB-based payphone identification information.

In its Opposition to the USTA and TDS Petitions for Waiver ("Opposition"), filed on October 7, 1997, AT&T strongly opposed these last-minute requests, but on that same day the Bureau granted a limited waiver on its own motion. Contrary to the statement in paragraph 12 of the Bureau's order, the Bureau's waiver will cause significant harm to IXCs in general, and AT&T in particular.

AT&T's ability to perform its obligations under the Commission's Payphone Orders is severely prejudiced by the Bureau's waiver. AT&T's September 15 and September 29 ex partes fully explained AT&T's actions in developing its payphone compensation systems. In those filings, AT&T showed that it cannot practically implement a per-call compensation mechanism based on "matching" LEC ANI lists and call records bearing a "07" code until late 1998, and at a cost of $16 million.

In particular, AT&T's ex partes showed that AT&T's 4ESS® switches, which are used to route AT&T toll-free calls, are not connected with LEC LIDB databases and cannot process "07" codes as payphone calls. Furthermore, in anticipation that LECs would comply with the Commission's rules for transmitting payphone specific identification codes, the ex partes explained that AT&T had not developed a system for using the 07 code to track payphone calls for the purpose of calculating per-call compensation. In addition, the ex partes provided the results of AT&T's investigation, both internally and with our outside vendor, regarding the time and cost figures required to develop and implement such a system. In sum, the ex partes showed that AT&T cannot track payphone calls on a per-call basis for the majority of payphone calls that require compensation during the waiver period.[1]

In its Opposition, AT&T urged the Commission to enforce its current rules, except in certain limited circumstances[2], because AT&T had acted diligently to comply with the rules issued last year even though most of the LECs had not. AT&T continues to believe that the Commission should enforce its payphone compensation rules in this regard, and that carriers should not be required to pay compensation unless payphones transmit specific payphone coding digits (i.e., 27, 29 and 70), because carriers will be deprived of their ability to block calls from such phones and will also be unable to bill customers on a per-call basis for calls from those phones.

In all events, the Bureau stated that its waiver was granted for the purpose of enabling all parties -- including IXCs -- to adjust to the Commission's requirements, without further delaying the payment of compensation as required by Section 276 of the Communications Act.[3] Given the facts stated above, particularly AT&T's

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[1] In contrast, AT&T is currently able to track and pay per-call compensation for dial-around operator services calls because they are routed to 5ESS® switches in AT&T's network, which can interconnect with an ancillary Originating Line Number Screening database.

[2] AT&T did not oppose a limited waiver to continue a per-phone compensation plan for phones served by non-equal access offices, and a brief extension of the per-phone compensation plan for equal access switches that use Bell I signaling (Opposition at p. 7-8).

[3] Waiver Order, paras. 2, 11.

inability to track payphone calls in the absence of specific payphone identification digits, the Bureau must, in equity, permit AT&T and similarly situated carriers to use an alternative mechanism to track and pay payphone compensation during the limited waiver period.[4]

Specifically, the Bureau should modify its waiver to permit carriers the alternative of calculating their payment obligations by using the per-phone compensation method[5] for payphones that are unable to deliver the proper identifying digits.

In addition, in order to enable carriers to prepare for receipt of specific payphone digits between now and March 9, and to maintain an accurate dual tracking mechanism during such time, the Bureau should expressly require each LEC to provide the Commission and carriers with a schedule stating which offices are currently able to deliver payphone digits and when it will deliver specific payphone identification digits from its other equal access end offices.[6] After March 9, however, only non-equal access offices should be exempt from the requirements the Commission clearly established eleven months ago.

Yours truly,

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[4] Based on recent communications with other IXCs, Frontier faces similar problems to AT&T's and supports the alternative cited below.

[5] The Commission stated in its October 9, 1997 Order (para. 4) that it would address in a subsequent order the per-phone compensation obligations that were vacated by the Court of Appeals. The Bureau's revised waiver order should require carriers that rely upon the waiver to apply the per-phone payment rules that are adopted by the Commission in its subsequent order.

[6] To simplify tracking and billing, the transition to per-call compensation -- after implementation of payphone digits from end offices -- should begin on the first day of the next month.

Certificate of Service

I hereby certify that, on this 29th day of October, 1997, copies of the foregoing Opposition of Frontier Corporation were served by first-class mail, postage prepaid, upon the parties on the attached service list.

Michael J. Shortley, III